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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/932,070	08/17/2001	Vincentius Paulus Buil	NL000434	5575

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
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EXAMINER	
WASSUM, LUKE S	
ART UNIT	PAPER NUMBER
2177	7

DATE MAILED: 03/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/932,070	BUIL ET AL.	
	Examiner	Art Unit	
	Luke S. Wassum	2177	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 August 2001*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-13* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-13* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *17 August 2001* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☒ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date 5.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

The Invention

1. The claimed invention is a system for browsing a collection of information units, wherein information units are randomly presented to the user, based on whether or not they meet user-defined attribute criteria. One embodiment of the invention is a system for distributing music or video files over the Internet.

Response to Preliminary Amendment

2. A preliminary amendment, filed 17 August 2001, has been received, entered into the record, and considered.

3. As a result of the amendment, claims 3, 5, 6, 9, 10 and 13 have been amended. Claims 1-13 remain pending in the application.

Priority

4. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in the EPO on 28 July 2000. It is noted, however, that applicant has not filed a certified copy of the EPO application as required by 35 U.S.C. 119(b).

5. Acknowledgment is made of applicant's claim for priority under 35 U.S.C. 119(a)-(d) based upon an application filed in the EPO on 28 July 2000. A claim for priority under 35 U.S.C. 119(a)-(d) cannot be based on said application, since the United States application was filed more than twelve months thereafter.

Information Disclosure Statement

6. The Applicants' Information Disclosure Statement, filed 20 February 2003, has been received and entered into the record. Since the Information Disclosure Statement complies with the provisions of MPEP § 609, the references cited therein have been considered by the examiner. See attached form PTO-1449.

Drawings

7. The drawings are objected to because they fail to show necessary textual labels of features or symbols in Figs. 1-3 as described in the specification. For example, placing a label, "Attribute Means", with element 102 of Fig. 1, would give the viewer necessary detail to fully understand this element at a glance. A descriptive textual label for each numbered element in these figures would be needed to better understand these figures without substantial analysis of the detailed specification. Any structural detail that is of sufficient importance to be described should be labeled in the drawing. Optionally, the applicant may wish to include a table next to the present figure to fulfill this requirement. See 37 CFR 1.84(n)(o), recited below:

> "(n) Symbols. Graphical drawing symbols may be used for conventional elements when appropriate. The elements for which such symbols and labeled representations are used must be adequately identified in the specification. Known devices should be illustrated by symbols which have a universally recognized conventional meaning and are generally accepted in the art. Other symbols which are not universally recognized may be used, subject to approval by the Office, if they are not likely to be confused with existing conventional symbols, and if they are readily identifiable.
>
> (o) Legends. Suitable descriptive legends may be used, or may be required by the Examiner, where necessary for understanding of the drawing, subject to approval by the Office. They should contain as few words as possible."

The deficient items are numbers 101-108 in Figure 1, numbers 205, 210 and 211 in Figure 2, and numbers 303 and 304 in Figure 3.

8. A proposed drawing correction or corrected drawings, addressing those deficiencies noted above, is required in response to this Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance. See 37 C.F.R. § 1.85.

Specification

9. The disclosure is objected to because of the following informalities:

The Abstract contains extraneous characters "Fig. 2".

Appropriate correction is required.

10. The disclosure is objected to because it contains an embedded hyperlink and/or other form of browser-executable code on page 1, lines 17-18. Applicant is required to delete the embedded hyperlink and/or other form of browser-executable code. See MPEP § 608.01.

Claim Objections

11. Claim 11 is objected to because of the following informalities: the claim is not terminated with a period.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

12. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

13. Claims 9 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

14. The term "large distance" in claim 9 is a relative term which renders the claim indefinite. The term "large" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

15. Regarding claim 10, the limitation of 'display means for displaying a simulation of a slot machine' is vague and indefinite. There are a wide variety of slot machines, with numerous features and characteristics. Without specific language as to what exactly constitutes 'a simulation of a slot machine', the claim is rendered indefinite, since there is no way to determine the precise meets and bounds of the patent protection sought. The question that needs to be answered by the claim is what features and characteristics, precisely, constitute the claimed "simulation of a slot machine".

For instance, were another product to contain a display with several spinning cylinders each containing different attributes, but the initiation of the randomization function were performed through the push of a button instead of the manipulation of an arm, would that still constitute "a simulation of a slot machine", and thus anticipate/infringe upon the claimed invention?

Claim Rejections - 35 USC § 102

16. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

17. Claims 1-5, 9 and 11-13 are rejected under 35 U.S.C. 102(b) as being anticipated by **Cluts** (U.S. Patent 5,616,876).

18. Regarding claim 1, **Cluts** teaches a system for browsing a collection of information units as claimed, comprising presentation means for presenting at least one of said information units (see discussion of the ability to listen to songs, col. 4, lines 38-54), and attribute means for associating a respective one of said information units with an attribute value (see discussion of the classification of content, col. 14, lines 28-50), wherein the system comprises random selection means for randomly selecting a unit for presentation whose attribute value meets a criterion (see col. 18, lines 51-54).

19. Regarding claim 11, **Cluts** teaches a method of browsing a collection of information units as claimed, comprising a step of presenting an information unit from said collection (see discussion of the ability to listen to songs, col. 4, lines 38-54) and a step of associating a respective information unit with an attribute value for at least a first attribute (see discussion of the classification of content, col. 14, lines 28-50), wherein the method comprises a step of randomly selecting a unit for

presentation from information units whose attribute values meet a criterion for said first attribute (see col. 18, lines 51-54).

20. Regarding claims 2 and 12, **Cluts** additionally teaches a system and method comprising a user-operable means for holding an attribute value of a currently selected unit as a criterion for subsequent selections (see disclosure that subsequent selections can be based upon the attributes of a currently selected information unit through the use of the 'More Like' function, col. 14, lines 12-27).

21. Regarding claim 3, **Cluts** additionally teaches a system wherein said attribute value is defined with respect to a first attribute, said attribute means being adapted to determine a set of valid attribute values for a further attribute in dependence on said criterion (see disclosure of a first attribute value "Rock", and the set of valid attribute values of a further attribute "1970s Rock", "1980s Rock", "1990s Rock", "Soft Rock", "Acid Rock", "Heavy Metal", etc., at col. 20, lines 33-44; see also col. 21, lines 57-62).

22. Regarding claim 4, **Cluts** additionally teaches a system wherein said first attribute representing a genre of said information units and said further attribute representing a sub-genre of said information units (see disclosure of a first attribute value "Rock", and the set of valid attribute values of a further attribute "1970s Rock", "1980s Rock", "1990s Rock", "Soft Rock", "Acid Rock", "Heavy Metal", etc., at col. 20, lines 33-44; see also col. 21, lines 57-62).

23. Regarding claim 5, **Cluts** additionally teaches a system wherein said information units comprise audio and/or video information (see col. 4, line 55 through col. 5, line 2).

24. Regarding claim 9, **Cluts** additionally teaches a system wherein the attribute means is adapted to determine a distance between a pair of attribute values, the random selection means being capable of selecting a unit from units whose attribute values have a relatively large distance to attribute values of an earlier selected unit (see col. 16, lines 1-20).

25. Regarding claim 13, **Cluts** additionally teaches a computer program product for causing a programmable device, when executed on said device, to constitute a system as claimed in claim 1 (see col. 5, lines 3-55).

Claim Rejections - 35 USC § 103

26. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

27. The factual inquiries set forth in *Graham* v. *John Deere Co*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

28. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

29. Claims 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Cluts** (U.S. Patent 5,616,876) as applied to claims 1-5, 9 and 11-13 above, and further in view of **Dunning et al.** (U.S. Patent Application Publication 2003/0229537).

30. Regarding claim 6, **Cluts** teaches a system for browsing a collection of information units substantially as claimed.

Cluts does not explicitly teach a system further comprising user-operable skip means for controlling the random selection means to abort the presentation of the currently selected unit and to skip to a randomly selected alternative unit whose attribute value meets said criterion.

Dunning et al., however, teaches a system further comprising user-operable skip means for controlling the random selection means to abort the presentation of the currently selected unit and

to skip to a randomly selected alternative unit whose attribute value meets said criterion (see paragraphs [0117], [0140] and [0253]).

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the ability to skip units, since a user might not enjoy the unit being presented, and this functionality would allow the user to avoid being forced to endure the entire presentation (see paragraph [0256]).

31. Regarding claims 7 and 8, **Cluts** teaches a system for browsing a collection of information units substantially as claimed.

Cluts does not explicitly teach a system wherein said skip means is capable of removing at least one criterion in dependence on a mode of operation of said skip means, said removing being determined by an iterated and/or prolonged operation of said skip means.

Dunning et al., however, teaches a system wherein said skip means is capable of removing at least one criterion in dependence on a mode of operation of said skip means, said removing being determined by an iterated and/or prolonged operation of said skip means (see disclosure that the user's activities, including the tracks that are skipped, are logged, and the logged actions are then used to modify the preferences that are used as criteria for subsequent selection of music tracks, paragraphs [0117], [0140] and [0253]).

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide for the removal of criteria based on a user's skipping of tracks, since the assumption is that if a user skips a track, he/she did not enjoy that track, and if the user skips many tracks with a particular common characteristic, then is would be a good assumption that the user does not enjoy tracks that share that characteristic (see paragraph [0256]).

Conclusion

32. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Krikorian (U.S. Patent 5,726,909) teaches a continuous play broadcast system having a central computer containing a master library of musical selections, and whereby the user computer has the ability to customize the continuous play output and to send requests to the central computer.

Contois (U.S. Patent 5,864,868) teaches a computer system for controlling a media playing device, whereby the user can choose to display only music that relates to a specific category, such as jazz or classical, and to automatically play selected music pieces that are related to the selected music category or a selected musical composer or artist.

Looney et al. (U.S. Patent 5,969,283) teaches a music organizer and entertainment center, whereby music can be played back in random fashion according to a variety of predetermined categories.

Abecassis (U.S. Patent 6,192,340) teaches a method of playing a variety of musical items from an audio library based on user's preferences.

Mastronardi (U.S. Patent 6,346,951) teaches a process for selecting a recording on an audiovisual reproduction system.

Eyal (U.S. Patent 6,389,467) teaches a network enabled device that receives search criteria and sequentially plays back media resources based on the search criteria.

Eyal (U.S. Patent 6,484,199) teaches a network enabled device that receives search criteria and sequentially plays back media resources based on the search criteria.

Van Der Meulen (U.S. Patent 6,563,769) teaches a collection management system, or virtual jukebox.

De Bonet et al. (U.S. Patent 6,609,096) teaches a method for overlapping stored audio elements in a system for providing a customized radio broadcast.

Siegel et al. (U.S. Patent Application Publication 2002/0002483) teaches a method for providing media files to a user over the Internet based on a user profile.

Marks et al. (U.S. Patent Application Publication 2002/0032019) teaches a method of near real time assembly of personalized playlists wherein a limited number of broadcast streams of programming content are assembled into a much larger number of unique playlists based upon the preferences of the user.

Lord et al. (U.S. Patent Application Publication 2002/0138165) teaches a system for recording and playing audio selections in response to user instructions.

Uchiyama et al. (U.S. Patent Application Publication 2002/0194264) teaches a digital audiovisual playback system to provide music video on-demand, including a "Jukebox Mode".

Eyal et al. (U.S. Patent Application Publication 2003/0033420) teaches a method for playing back media from a network based on a search criteria.

Pestoni et al. (U.S. Patent Application Publication 2003/0037157) teaches a networked virtual jukebox which renders audible music or other audio files, the order of said audio files to be determined by networked peer-voting input, recent play history, random selection and voting.

Hickey et al. (U.S. Patent Application Publication 2003/0050997) teaches a scheduling system for automatically scheduling music performances as would be used in professional radio broadcasting, and supports dynamic format customization based on preference feedback.

Van Der Meulen (U.S. Patent Application Publication 2003/0163211) teaches a collection management system, or virtual jukebox.

Van Der Meulen (U.S. Patent Application Publication 2003/0163486) teaches a collection management system, or virtual jukebox.

Buil et al. (International Publication WO 02/010878) teaches a system for browsing a collection of information units.

Buil (International Publication WO 02/095611) teaches a method for facilitating the selection of at least one item from a selection of items.

MusicMatch ("MusicMatch and Xing Technology Introduce MusicMatch Jukebox") is a product announcement.

Bechtel ("MusicMatch Jukebox 3.1") is a product review.

Computer Shopper ("MusicMatch Jukebos Plus 4.5") is a product review.

PR NewsWire ("OneBigCD Launches Syndicated Internet Jukebox to B2B Market; Service is the First to Drive Repeat Visits to Pertners' Web Sites") is a product announcement.

Dunning et al. (U.S. Provisional Patent Application 60/201,622) is the document from which the secondary reference in the rejection of record derives its priority date.

MusicMatch ("MusicMatch Introduces Personal MP3 Radio, the Ultimate Mix of Radio and Personalization") is a product announcement.

The Sonic Spot ("History – MusicMatch Jukebox") is a timeline of the version releases and features of the MusicMatch Jukebox.

Crouch ("MusicMatch 6.0 Streams the Music You Want") is a product review.

Gann ("Jukebox Jury Media Rippers, Encoders and Players") is a comparison of features and performance of various media players and encoders.

The following references, while not qualifying as prior art, are also of interest:

Eugene et al. (U.S. Patent Application Publication 2003/0183064) teaches a sequential playback system configured to select each sequential song based upon characteristics of an ending segment of each preceding song.

Goci et al. (U.S. Patent Application Publication 2004/0025185) teaches an integrated video jukebox and entertainment management system for a premises, comprising a video jukebox server providing a set of video selections customized to a predetermined commercial enterprise for the premises.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luke S. Wassum whose telephone number is 703-305-5706. The examiner can normally be reached on Monday-Friday 8:30-5:30, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John E. Breene can be reached on 703-305-9790. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

In addition, INFORMAL or DRAFT communications may be faxed directly to the examiner at 703-746-5658.

Customer Service for Tech Center 2100 can be reached during regular business hours at (703) 306-5631, or fax (703) 746-7240.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Luke S. Wassum
Art Unit 2177

lsw
19 February 2004